

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

January 14, 2002

IN RE:

**PETITION OF UNITED TELEPHONE
COMPANY TO CHANGE AND INCREASE
CERTAIN INTRASTATE RATES AND
CHARGES SO AS TO PERMIT IT TO EARN
A FAIR AND ADEQUATE RATE OF RETURN
ON ITS PROPERTY USED AND USEFUL IN
FURNISHING TELEPHONE SERVICE TO ITS
CUSTOMERS IN TENNESSEE AND TO ADOPT
NEW AND REALISTIC DEPRECIATION RATES
FOR CENTRAL OFFICE EQUIPMENT**

DOCKET NO. 01-00451

**ORDER OF THE PRE-HEARING OFFICER ESTABLISHING
PRE-HEARING AND HEARING PROCEDURE**

This proceeding came before the Pre-Hearing Officer on January 11, 2002, at the request of the parties, United Telephone Company ("United"), the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), and the Staff of the Tennessee Regulatory Authority as a Party ("TRA Staff"), for the purpose of resolving certain matters in advance of the Hearing scheduled for January 14 and 15, 2002.

The Parties in attendance were as follows:

United Telephone Company ("United") – **T.G. Pappas**, Esquire, and **Dale Grimes**, Esquire, Bass, Berry & Sims PLC, 2700 First American Center, Nashville, TN 37238, (participated telephonically);

Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter ("Consumer Advocate") - **Vance Broemel**, Esquire, and **Terry Buckner**, Office of Attorney General, 425 5th Avenue North, Cordell Hull Building, Nashville, TN 37243-0500; and

Staff of the Tennessee Regulatory Authority as a Party ("TRA Staff") – **Gary Hotvedt**, Esquire and **Joseph Shirley**, 460 James Robertson Parkway, Nashville, TN 37243-0505.

During this meeting the Parties discussed and the Pre-Hearing Officer acted on several matters as set forth below.

1. United's Filing of a Revised UTC Exhibit 1 to Testimony of Joe M. Enoch

The parties brought to the attention of the Pre-Hearing Officer a document entitled Revised UTC Exhibit 1. United had provided this document to the Consumer Advocate and the TRA Staff on January 10, 2002 and intended to use it at the time of the Hearing. At the request of the Consumer Advocate and the TRA Staff, United agreed to file the document in the docket file of this matter in advance of the Hearing. United described the document to the Pre-Hearing Officer as a filing which updated the information previously provided in Mr. Enoch's pre-filed rebuttal testimony and by United in response to the Authority's data requests. The Consumer Advocate and the TRA Staff advised the Pre-Hearing Officer that, as a result of the new material being filed, they would need additional time to review and analyze the document and, if necessary, to file a responsive document. The parties agreed that the Consumer Advocate or the TRA Staff could have until 2:00 p.m. on Monday, January 14, 2002 to make such a filing. United agreed to file its document as soon as possible in the afternoon of January 11, 2002.

2. Motion to Postpone the Start of the Hearing until Tuesday, January 15, 2002 at 9:00 a.m.

In light of United's filing and the need for additional time to prepare a response to the filing, the TRA Staff orally moved to postpone the beginning of the Hearing from Monday, January 14 at 9:00 a.m. to Tuesday, January 15 at 9:00 a.m. In addition to extra time required for preparation, the TRA Staff contended that United's filing reduced the need for two (2) days of hearing to one (1) day. The Consumer Advocate joined in the Motion and United agreed both to

the postponement and to the statement that the Hearing could now be completed within one (1) day.

United brought to the Pre-Hearing Officer's attention that United's Notice of the Hearing had been published showing the date of the Hearing as Monday, January 14, 2002. The Pre-Hearing Officer expressed concern that members of the public desiring to attend and/or make comments may appear at the Tennessee Regulatory Authority on Monday morning, January 14, 2002 in reliance upon United's Notice. The Pre-Hearing Officer suggested that the Hearing convene at 9:00 a.m. on Monday, January 14, to allow any members of the public to be heard at the Hearing. The record would be open for public comments at that time and, upon the completion of any public comments, the Hearing would be adjourned until 9:00 a.m. on Tuesday, January 15. Upon the Parties' agreement with the Pre-Hearing Officer's recommendation, the Pre-Hearing Officer informed the Parties that he would notify the Authority's Executive Secretary regarding the proposed change in the Hearing schedule.

3. Presentation of Proof and Witnesses During the Hearing.

The Parties requested the opportunity to present brief opening statements in advance of presenting their proof. Based upon the agreement of the Parties, the Pre-Hearing granted this request and allocated ten (10) minutes for an opening statement by United and a total of ten (10) minutes for the opening statements of the Consumer Advocate and the TRA Staff.

As the petitioner, United will present its proof first during the Hearing. The Consumer Advocate will present its proof after United and the TRA Staff will present its proof after the Consumer Advocate. The order of the witnesses shall be as follows:

For United:

Herbert Bivens

Joe M. Enoch

For the Consumer Advocate:

Terry Buckner

For the TRA Staff:

Joseph Shirley

The order of cross-examination will also follow the order in which the parties' proof is presented, with one exception. "Friendly cross-examination" designed to rehabilitate a witness will not be permitted. To avoid this situation, United will conduct its cross-examination of Mr. Buckner and Mr. Shirley last.

4. Agreement of the Parties to Permit Authority Staff to Ask Questions of the Witnesses

During the meeting on January 11, 2002, the Parties agreed that advisory Authority Staff may ask questions of the witnesses independent of the Parties. The Authority Staff will ask questions that do not espouse the view or position of any Party. The questions are solely for the purpose of assisting the Directors in gathering information during the Hearing. By asking questions of the witnesses, the Authority Staff will not be considered as a party and will not be precluded from continuing in their role as advisors to the Authority. The Authority Staff will ask their questions following the cross-examination and preceding the redirect examination of each witness. A separate Agreed Order signed by all of the parties will be issued by the Pre-Hearing Officer prior to the Hearing.

Based upon the foregoing,

IT IS THEREFORE ORDERED THAT:

1. United shall file its Revised UTC Exhibit 1 to Joe M. Enoch's pre-filed testimony no later than 3:00 p.m. on Friday, January 11, 2002. The Consumer Advocate and the TRA Staff shall have until 2:00 p.m. on Monday, January 14, 2002 to file any written response to United's filing.

2. The Hearing in this case shall commence as scheduled at 9:00 a.m. on Monday, January 14, 2002 for the purpose of receiving public comment. Thereafter, the Hearing shall be

adjourned until 9:00 a.m. on Tuesday, January 15, 2002, at which time the Parties will present their opening statements and evidentiary proof.

3. The order of proof and presentation of witnesses, as well as the order of cross-examination, shall be as set forth in this Order. Each side will have ten (10) minutes to present opening statements.

4. Authority Staff will be permitted to ask questions of the witnesses in the manner set forth in this Order. A separate Agreed Order permitting such questioning will be entered prior to the Hearing.

J. Richard Collier
Richard Collier
Pre-Hearing Officer

K. David Waddell
K. David Waddell, Executive Secretary

January 14, 2002
Date